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EXAMINER

LINDINGER, MICHAEL L

ART UNIT

PAPER NUMBER

2841

DATE MAILED: 03/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/981,347

Applicant(s)

HERRON ET AL.

Examiner

Michael L. Lindinger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-3, 14, 32-33, and 42 are rejected under 35 U.S.C. 102(b) as being unpatentable by Herold U.S. Patent No. 5,832,067. Herold teaches an audio playback system comprising an audio content server 24, said audio content server 24 includes audio content to be selected for playback, and a device 20 to call said audio content server to request and receive an audio playback of selected audio content at a scheduled time, wherein said device is a clock-radio device, wherein said device to include an audio output speaker, said audio content server to play said selected audio content over said audio output speaker 34, wherein the audio playback includes audio advertising information, wherein the system includes a transmitter for transmitting a request to the audio content server, as well as a receiver to receive an audio playback of selected audio content requested by transmitter unit, and an audio output speaker to output said audio playback of said selected audio content (Col. 3, lines 8+; Col. 4, lines 10+; FIG. 1).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 4 and 38 rejected under 35 U.S.C. 103(a) as being unpatentable over Herold U.S. Patent No. 5,832,067 in view of Mainker U.S. Patent No. 5,909,487. Herold teaches an audio playback system comprising an audio content server 24, said audio content server 24 includes audio content to be selected for playback, and a device 20 to call said audio content server to request and receive an audio playback of selected audio content at a scheduled time, wherein said device is a clock-radio device 42, wherein said device to include an audio output speaker 34, said audio content server to play said selected audio content over said audio output speaker (Col. 3, lines 8+; Col. 4, lines 10+; FIG. 1). Herold does not explicitly teach a device that is to provide authentication information prior to accessing said audio content server. Mainker teaches a telecommunications device comprising authentication information that the user must enter before permission is granted to access the dialing features of the telecommunications system (Col. 3, lines 35+; Col. 4, lines 1+; Col. 6, lines 35-50). It would have been obvious to a person skilled in the art at the time of the invention to adapt the device of the Herold reference to include an authentication feature before

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accessing the audio content server. By including an authentication feature within the device, the security of the information provided on the audio content server may be better protected and safeguarded.

2. Claims 5-13, 15-18-31 44-57 rejected under 35 U.S.C. 103(a) as being unpatentable over Herold U.S. Patent No. 5,832,067 in view of Mainker U.S. Patent No. 5,909,487 in further view of S. Regarding Claims 5-13, 15-17, 34-37, 39-41 and 43, Herold teaches an audio playback system comprising an audio content server 24, said audio content server 24 includes audio content to be selected for playback, and a device 20 to call said audio content server to request and receive an audio playback of selected audio content at a scheduled time, wherein said device is a clock-radio device 42, wherein said device to include an audio output speaker 34, said audio content server to play said selected audio content over said audio output speaker, wherein Herold teaches an settable alarm time, wherein one embodiment of the Herold invention comprises several servers 24, each capable of transmitting a single message and each having its own telephone number (Col. 3, lines 8+; Col. 4, lines 10+; FIG. 1). Herold does not explicitly teach an audio playback system comprising a registration server, a microphone used to select audio content on said audio content server, a user configuration server, a web based browser, wherein web based browser is used to access user configuration server to update subscriber information, a schedule data server used to provide scheduling information across said device. Mainker teaches not only a telecommunications device comprising authentication information that the user

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must enter before permission is granted to access the dialing features of the telecommunications system, but the call back telecommunications apparatus provided in the invention can exist within a public land mobile network (PLMN) telecommunications exchange, such as a Mobile Switching Center (MSC), or a private branch exchange (PBX) (Col. 3, lines 35+; Col. 4, lines 1+; Col. 6, lines 35-50). Smith Dewey teaches a system and method for alerting a user using an interactive alarm clock comprising a web browser 118, a communication network 114, an interface 110 coupling to the communications network, and a resettable alarm 124 based on inputted data such as weather, traffic alerts acquired from the web browser and audible played back to the user (FIG. 1). It would have been obvious to a person skilled in the art at the time of the invention to not only adapt the Herold reference to include an authentication feature from the Mainker reference as highlighted in the above rejection, but to also include a web browser and interface network linking the audio playback device to the internet in order to better update the user, as well as to also recognize the established hierarchical configuration of media servers such as PBX and there relationship to networks such as the internet in providing information to subscribers.

Regarding Claims 18-31, the combination of the Herold, Mainker, and Smith Dewey teachings inherently possess the methods to select audio content from an audio server to be provided via an audio playback over an audio output speaker, scheduling a time to send a request to said audio content server, sending said request to receive said audio playback at said scheduled time, and playing the audio playback of the selected audio

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content over said audio output speaker, as well as the corresponding mounting and assembling steps needed to construct the apparatus.

Regarding Claims 44-57, the combination of the Herold, Mainker, and Smith Dewey teachings inherently possess a machine readable medium 62, which when executed by a processor 54, cause said processor to perform the methods detailed in the above rejection (Herold, Col. 4, lines 10+).

***Prior Art***

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Rolf U.S. Patent No. 5,555,536 discloses a device for playing recorded audio at a selected time comprising a memory and playback unit.
- Chan U.S. Patent No. 5,786,768 discloses a clock radio gas detector apparatus and method comprising a radio, a speaker, and a speech synthesizer.
- Jeong U.S. Patent No. 5,802,158 discloses a method and apparatus for providing an alarm call to a remotely located user using a disa line in a private exchange.
- Jodoin U.S. Patent No. 5,812,653 discloses a subscription and paired authorization code based access to a meet-me conference service.
- Pattison U.S. Patent No. 5,991,373 discloses a reproduction of a voice and video session comprising a voice server and workstations.
- Nielson U.S. Patent No. 6,212,268 B1 discloses a pre-scheduled callback service comprising a callback service and a domestic telephone network.
- Smith Dewey U.S. Patent No. 6,229,430 B1 discloses a system and method for alerting a user comprising a communication network and memory components.
- Siemens U.S. Patent No. 6,373,374 B1 discloses a cordless phone system with speech recognition alarm comprising an Internet server and phone network.



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- Gerszberg U.S. Patent No. 6,377,664 B2 discloses videophone multimedia announcement answering machine.
- Patterson U.S. Patent No. 6,504,913 B1 discloses a call handling mechanism.

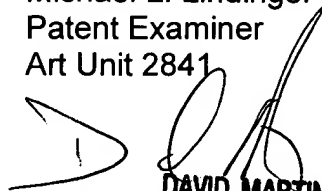
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael L. Lindinger whose telephone number is (703) 305-0618. The examiner can normally be reached on Monday-Thursday (7:30-6).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on (703) 308-3121. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7318 for regular communications and (703) 746-7318 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

MLL  
March 5, 2003

Michael L. Lindinger  
Patent Examiner  
Art Unit 2841  
  
**DAVID MARTIN**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2800**